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Item 1. (Legislative Charters for Intelligence Agencies)

1. In Book I, Chapter XVIII, Summary: Findings and Recommendations, of the Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, U.S. Senate (Church Committee), it is stated:

The Committee finds that Congress has failed to provide the necessary statutory guidelines to ensure that intelligence agencies carry out their necessary missions in accord with constitutional processes.

In order to provide firm direction for the intelligence agencies, the Committee finds that new statutory charters for these agencies must be written that take account of the experience of the past three and a half decades. Further, the Committee finds that the relationship among the various intelligence agencies and between them and the Director of Central Intelligence should be restructured in order to achieve better accountability, coordination, and more efficient use of resources. (pp. 425-426.)

2. There was no formal response by the executive branch to the various recommendations published in the Church Committee report. During the Ford Administration, neither the President, the DCI, nor any other Administration official in the Intelligence Community stated opposition to having the Inouye Committee write charters for Community agencies. The Ford Administration provided necessary guidelines for Community agencies in Executive Order 11905 and in doing so may be said to have anticipated demands for legislative charters. While it is apparent that the Administration preferred to retain some flexibility by setting guidelines through Executive order rather than statute, it took no position against legislative charters. The DCI, while taking no public position, did make it clear in meeting with members of the Inouye Committee that he felt a need for legislation only to establish in law the position of the Deputy to the DCI for the Intelligence Community and to provide more effective criminal sanctions for the unauthorized disclosure of intelligence sources and methods.

3. The new Senate Select Committee on Intelligence (Inouye Committee) formed a Subcommittee on Charters and Guidelines, chaired by Senator Huddleston. The staff of that subcommittee is examining the question of legislative charters for the agencies in the Intelligence Community. No formal recommendations for charter legislation have been made, but

Chairman Inouye has expressed his personal reservations about the wisdom of rigid statutory charters for intelligence agencies. There has been no formal proposal for a single charter for the Intelligence Community and there is unlikely to be since the Community is made up of a conglomerate of agencies, most of which are subordinate agencies or components of major departments or agencies engaged primarily in matters other than intelligence. At present the CIA is the only intelligence agency which has a legislative charter.

4. So far as there is a "Community" position, it is that the National Security Act of 1947, the CIA Act of 1949 and Executive Order 11905 may need minor amendments but that new charter legislation for the Intelligence Community is not needed. Papers relating to the development of this position are attached as follows:

Tab 1. Letter of 10 August 1976 to the DCI from Senators Huddleston and Hatfield, chairman and vice chairman of the Subcommittee on Charters and Guidelines of the Senate Select Committee on Intelligence requesting a list of proposed "changes and principles" to form the basis for beginning work on charters for the Intelligence Community.

Tab 2. A 2 September memorandum from the D/DCI/IC to NFIB Principals requesting comments on a proposed reply to the Huddleston/Hatfield letter of 10 August.

Tab 3. A 2 September letter from Deputy Secretary of Defense Ellsworth to Senator Huddleston advising that the Secretary of Defense considered Executive Order 11905 was sufficient, but that the Department was prepared to engage in a cooperative dialogue with the Subcommittee. The Secretary of Defense had received a letter on 10 August identical to that sent to the DCI (see Tab 1 above).

Tab 4. OLC Memorandum for the Record of 14 September reporting on a breakfast meeting the DCI had with Senators Huddleston and Hatfield. The DCI's position was that the Executive Order has been in existence for less than a year and that sufficient time should be allowed for experience to be gained in operations under the Order before any thought is given to establishing similar provisions in statute. He believed that the Executive Order and concomitant changes in National Security Council Intelligence Directives and regulations governing the activities of the agencies provided adequate guidelines for at least the time being. It was understood on the basis of conversation at this breakfast that the DCI would not respond to the questions in the 10 August letter from Senators

Huddleston and Hatfield as to the changes and principles the DCI believed desirable in charters for Community agencies. Accordingly, no further action was taken on the material which was sent to the NFIB Principals on 2 September (see Tab 2 above).

Tab 5. The DCI letter of 19 January 1977 to the President forwarding the "1977 Director of Central Intelligence Report on the Intelligence Community." At the bottom of page 3 of the letter the DCI wrote:

"As for the question of legislation in general, I am wary of opening reconsideration of the National Security Act of 1947 and the Central Intelligence Agency Act of 1949. In the current Congress I believe this could very well lead to placing of additional restrictions on intelligence operations, restrictions which could seriously hamper the effectiveness of our intelligence effort. I recognize that the Congress may push for charter legislation anyway and of course we should be prepared to respond constructively to any legislative proposal, but I would not at this time seek such legislation nor encourage those who favor it."

5. Attention also is invited to Tab C in the briefing book on Intelligence Community Organization and Structure, which already has been provided to the DCI-designate. Tab C is a briefing on "Operations of the Intelligence Community under E.O. 11905." This briefing was approved by the DCI on 27 October 1976 for his use in briefing the Charters and Guidelines Subcommittee of the Senate Select Committee, but the briefing session was not held.

6. The Staff Director of the Senate Select Committee, William Miller, has advised that proposed legislation on charters is in draft and will soon be surfaced for discussion with the executive branch.

7. It is suggested that if the DCI-designate is queried as to charters legislation he should comment as follows:

"It is my understanding that organizations of the Intelligence Community consider Executive Order 11905 an adequate vehicle under which to operate, although they would like to clarify some of the language.

"I see some merit in deferring the enactment of legislative charters for intelligence agencies until there has been sufficient

experience in operating under the Executive Order and revised directives and regulations to ascertain what provisions should be incorporated into law and, indeed, whether specific statutes on this subject are necessary or wise.

"I also have been advised that your Charters and Guidelines Subcommittee is well along with drafting some legislative proposals.

"If that is the case, I suggest it would be timely for the Committee staff to begin to meet with representatives of the executive branch, including Intelligence Community officers, so that the Committee can have the benefit of comments from those who will be responsible for operating under any legislation that may be proposed.

"I can assure you that, as DCI, I would want to be involved personally in this dialogue and be as constructive as possible."

8. Some of the pros and cons relative to statutory charters are outlined in Tab 6.

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

August 10, 1976

IN REPLY PLEASE

REFER TO R# 4290

Mr. George Bush
Director of Central Intelligence
Central Intelligence Agency
Langley, Virginia

Dear Director Bush:

As you know the Senate has established, by the passage of S. Res. 400 of the 94th Congress, the Senate Select Committee on Intelligence. Section 12(a)(2) of S. Res. 400 provides that the Senate Select Committee shall study the "extent and nature of the authority of the departments and agencies of the Executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department."

As Chairman and Vice Chairman of the Senate Select Committee's Subcommittee on Charters and Guidelines, we are writing to ask for your assistance in this study. During the months ahead the Subcommittee and the Subcommittee's staff will meet with representatives of all agencies and departments which constitute the United States Intelligence Community. These meetings will be to determine the authority of the various departments and agencies, to examine the potential effects of proposed organizational changes on the accomplishment of the vital intelligence mission of the United States, and to discuss new or revised charters for the Intelligence Community agencies and departments.


In order to accomplish our mission under S. Res. 400, we are requesting that you designate one or more members of your staff who will be able to meet regularly with the Subcommittee or the Subcommittee's staff to discuss charter issues as they relate to Intelligence Community

Mr. George Bush
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August 10, 1976


agencies and departments under your jurisdiction and notify the Subcommittee of your choice of designees. We would also appreciate it if you, or your staff, could within the next three weeks, draw up a list of (1) changes which you believe are desirable in the extent and nature of the authority of the Intelligence Community agencies and departments under your jurisdiction; and (2) principles which you and your staff believe should be embodied in charters for these departments or agencies. The lists of changes and principles will allow the Subcommittee to begin, with you, a cooperative dialogue designed to strengthen America's Intelligence Community and to insure that it operates in accordance with the laws of the United States.

There has been no similarly systematic congressional review of the extent and nature of the authority of the agencies and departments which make up the United States Intelligence Community since the passage of the National Security Act of 1947. The study which the Subcommittee on Charters and Guidelines is undertaking carries with it enormous responsibility. The end product of the study may be landmark legislation in this area. We look forward to your assistance in this challenging venture.

Sincerely,



Walter D. Huddleston
Chairman, Subcommittee on
Charters and Guidelines



Mark O. Hatfield
Vice Chairman, Subcommittee
on Charters and Guidelines

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RE

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

NFIB-D-27.10/5

Intelligence Community Staff

02 SEP 1976

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MEMORANDUM FOR: National Foreign Intelligence Board Principals
FROM : STAT
Deputy to the DCI for the Intelligence Community
SUBJECT : Response to SSCI Subcommittee on Charters and
Guidelines

1. By letter of 10 August 1976 (copy attached), Senators Huddleston and Hatfield, Chairman and Vice Chairman of the Subcommittee on Charters and Guidelines of the Senate Select Committee on Intelligence asked the DCI to:

"Draw up a list of (1) changes you believe are desirable in the extent and nature of the authority of the Intelligence Community agencies and departments under your jurisdiction; and (2) principles which you and your staff believe should be embodied in charters for these departments and agencies."

2. In response, it is proposed the DCI forward a three-part paper:

a. Part I would suggest changes needed in the National Security Act of 1947 to define the Community responsibilities of the DCI, create an Intelligence Community Staff, provide for two Deputy DCI's and make some specific adjustments in CIA authorities.

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b. Part II would indicate desired changes in the CIA Act of 1949.

c. Part III, draft of which is attached, would deal with "Charters for Major Organizational Elements of the Intelligence Community."

3. Any comments you may have on the attached Part III would be appreciated. NFIB Principals of Defense Department agencies are advised that a similar letter has been sent to Mr. Latimer. Because Senators Huddleston and Hatfield are expecting an early response, it is requested that any comments you may have be provided within two days of receipt of the attached draft.

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Attachments:
as stated

PRINCIPLES REGARDING REVISION OF INTELLIGENCE AGENCY CHARTERS

Priority should be given to amending the National Security Act of 1947. The Act should remain general in nature--establishing the office of Director of Central Intelligence, the Intelligence Community staff, and the Central Intelligence Agency; setting forth the basic purposes of each of these instrumentalities; and defining their relationship to each other and to the Intelligence Community. Further exposition concerning the functions and authorities of specific agencies, and limitations thereon, should be handled in separate and more detailed charters for particular agencies.

I. National Security Act of 1947 - The following points should be embodied in a revised National Security Act:

A. Definition of the Intelligence Community Responsibilities of the Director of Central Intelligence. The intelligence coordination authorities now conferred on CIA under Section 102(d)(1) and (2) should be transferred to the DCI and expanded to include certain Community supervisory authorities set forth in Executive Order 11905.

B. Creation of an Independent Intelligence Community Staff. An Intelligence Community staff should be created under the DCI to assist him with his Community responsibilities. The staff should be operationally independent of the Central Intelligence Agency and should be provided all necessary authorities to function as an independent establishment.

C. Creation of Two Statutory Deputy Directors of Central Intelligence. There should be established two Deputy Directors of Central Intelligence--one to assist the DCI in Intelligence Community matters and the other to assist him with Central Intelligence Agency matters.

D. Inclusion of Covert Action Reporting Provision. Section 662 of the Foreign Assistance Act should be repealed. A more manageable reporting provision should be included in the National Security Act as a proviso to Section 102(d)(5).

E. Protection of Intelligence Sources and Methods. The responsibility of the Director of Central Intelligence must be buttressed by new provisions in the National Security Act which:

- (1) contain the legislative proposal to protect intelligence sources and methods recommended by the President on 19 February 1976;
- and (2) authorize the Director to devise procedures and issue regulations to protect intelligence information.

F. General Adjustments in Central Intelligence Agency Authorities. Several changes in the existing language of the National Security Act are desirable to clarify Agency authorities:

- (1) insert the word "foreign" before "intelligence" and include counterintelligence activities abroad as an Agency responsibility;
- (2) clarify the proviso which prohibits police and internal-security functions by specifically authorizing certain domestic activities which must be undertaken in support of foreign intelligence operations;
- and (3) expand Agency "correlation and evaluation" authority in Section 102(d)(3) by including "collection" and "production" authority.

II. Central Intelligence Agency Act of 1949

The Central Intelligence Agency Act of 1949 should provide the authorities necessary for the Agency to perform its mission as defined in the National Security Act of 1947. Chief among these are the special funding and expenditure authorities now in sections 5 and 8 of the Act. These are absolutely essential to the successful conduct of the Agency's mission and must be retained intact in any future revision of the Act. In addition, these authorities should be supplemented by a more explicit provision for the contingent fund.

In furtherance of its foreign intelligence operations, the Central Intelligence Agency must conduct certain activities within the United States or involving U.S. citizens. Any future revision of the Central Intelligence Agency Act must continue to authorize such activities. These include, but are not limited to, the domestic collection of foreign intelligence; the provision of information resulting from foreign intelligence activities to other appropriate departments and agencies; the protection of Agency installations, activities, information and personnel; and the investigation of applicants, employees, and other persons with similar associations with the Agency. They also include necessary administrative, technical and support activities, including procurement, maintenance and transportation; communications and data processing; recruitment and training; development of cover and proprietary arrangements; and entering into contracts and arrangements with appropriate private companies and institutions to provide research, analytical and developmental services. Existing authorization for certain of these activities, e.g. cover and documentation, are in some respects deficient and should be supplemented in any future revision.

While the Central Intelligence Agency Act should remain positive in tone, it may be desirable to place certain specific restrictions on Agency activity where necessary to safeguard the constitutional rights of U.S. citizens. Such restrictions must be carefully drafted to avoid precluding the fully appropriate domestic activities discussed above. Otherwise, policy limitations regarding the conduct of foreign intelligence operations should not be contained in statute, but should be left to more flexible instruments such as Executive orders and directives.

III. Charters for Major Organizational Elements of the Intelligence Community. Any possible requirement for a statutory charter for an individual organization of the Intelligence Community should be separately addressed in terms of the responsibilities and functions which that particular organization is expected to fulfill rather than as part of an omnibus bill applicable to the entire Community.

A. The Central Intelligence Agency is a national intelligence organization, highly specialized in its work, and not an integral part of any larger governmental organization. It requires a legislative charter of its own.

B. No requirement is seen for legislation concerning the intelligence functions and offices of those organizations in which the foreign intelligence elements are small in size, their functions are directly related to the overall mission of the organization of which they are a part, and personnel salaries represent almost the entire cost. In this category are the foreign intelligence elements of the Department of State, the Department of the Treasury and the Energy Research and Development Administration.

C. Any need for statutory provision for the Intelligence Division which is the foreign intelligence element of the Federal Bureau of Investigation should be addressed in terms of whether there is need for legislation with respect to the Bureau as a whole and not separately.

D. Because intelligence activities of the Department of Defense represent such a major portion of the intelligence resources of the United States Government, and since some Defense Department organizations fulfill national as well as departmental intelligence responsibilities, the charter question is inherently complicated.

(1) The Defense Intelligence Agency and the intelligence organizations of the military services are essentially departmental in nature, although they contribute to the production of national intelligence through their collection and analytic activities. Determination of the organization and functions of these intelligence organizations is inherent in the responsibilities of the Secretary of Defense and the Secretaries of the military departments. Additional statutory authorization is not required.

(2) The National Security Agency serves the needs of the entire Government but responsibility for this activity has been assigned to the Secretary of Defense. Because of the highly classified nature of much of the effort for which the NSA is responsible, it, of necessity, operates under classified directives. The existing National Security Council Directives, Director of Central Intelligence Directives, and Defense Department regulations are deemed adequate []

for the purpose, and no statutory charter considered to be required. From the standpoint of organization and manning, Defense Department authorities already are sufficient for the purpose.

(3) The national reconnaissance activities conducted on behalf of the U.S. Government involving Defense Department elements are highly classified in nature. Compartmented classification systems are applied to the planning, programming and conduct of the reconnaissance operations and to the utilization of the products therefrom. The Secretary of Defense and the Director of Central Intelligence are jointly involved in this effort and their authorities are sufficient for the organization, management and functioning of this activity. No need is seen for legislation specifically applicable to the reconnaissance program.

E. None of the foregoing comments concerning the need for legislation, or the perceived absence of such need, as regards individual elements of the Intelligence Community are intended to imply there is no need for an overall statement of the role and function of the foreign intelligence program of the United States Government. Such a statutory statement, positive in tone and general in nature, could serve a very useful purpose. It could be included as an amendment to the National Security Act of 1947 or be a separate legislative act.

(1) Such legislation could set forth the basic purposes of national intelligence activities and define the relationship between the Congress and the intelligence agencies of the Executive Branch. Statutory provision for exclusivity in jurisdiction for intelligence oversight would be helpful, as also would provision for establishment of rules which will assure the responsible handling of sensitive intelligence information in the Congress.

(2) Such legislation, however, should not deal with the structure and procedures of the Intelligence Community, nor the specific roles and responsibilities of the departmental components of the Community.

(3) Considerable attention already has been given to the "thou shalt not" restrictions on intelligence activities, e.g., Executive Order 11905, and there is need for positive statement of the activities which the Intelligence Community is authorized to undertake.

F. Unless the Senate Select Committee on Intelligence envisages a major and drastic revision of the functioning and structure of the Intelligence Community, little if any need is seen for Committee attention to statutory charters for elements of the Community other than the DCI's Intelligence Community Staff and the Central Intelligence Agency.

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14 September 1976

MEMORANDUM FOR THE RECORD

SUBJECT: Breakfast Meeting with Senators Huddleston and
and Hatfield, Senate Select Committee on Intelligence,
Subcommittee on Charters

1. This morning the Director hosted a breakfast meeting with Chairman Walter Huddleston and Ranking Minority Member Senator Mark Hatfield of the SSCI's Subcommittee on Charters. Also present at the meeting were Messrs. William Miller, Elliott Maxwell, Howard Liebengood and Martin Gold of the Committee staff. Present from the Agency were Mr. Knoche, [REDACTED] and Mr. Cary. The meeting was arranged at the request of Senator Huddleston through Bill Miller.

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2. The Director kicked off discussions by stating his general attitude about charter revisions. He indicated that while it was generally agreed some revisions could, and probably should, be made in the charter of the Central Intelligence Agency, he was concerned about the prospect of major revisions in the Act at this point in time. He cited the fact that the Executive Order has been in existence for less than a year and he felt that sufficient time should be allowed to elapse for experience to be gained in operation under the Executive Order before any thought is given to establishing similar provisions in statute--if indeed that is desirable at all. He expressed grave concern however about the extent to which specific intelligence activities should be delineated in statute, and Admiral Murphy underscored this problem with respect to other elements of the Intelligence Community especially the National Security Agency.

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3. Senator Huddleston stressed that his Subcommittee wanted to undertake this inquiry into the question of the need for legislative charters in full cooperation with the Administration and the various agencies involved. He said they would want to check with the agencies every step of the way. The Director indicated that he felt that if the Committee thought it was desirable to establish charters, we would be happy to review whatever proposals the Committee should make and comment on them. Senator Hatfield said he was primarily interested in listening to the discussions this morning but did underscore his support for basic "organic" legislation which would be the basis for the operation of the various agencies which make up our intelligence apparatus.

4. Senator Huddleston asked for Mr. Miller's thoughts on the subject and Miller made specific reference to the vague language of Section 102(d)(5) of the National Security Act which authorizes the performance of "...such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." Mr. Miller said this language had been interpreted in various ways by various people and he thought some clarification of the language was necessary although he did not necessarily advocate a high degree of specificity with respect to the conduct of sensitive intelligence activities. Mr. Maxwell said he felt there was a definite interrelationship between law and Executive Order and there was no reason why the Committee could not come up with a statute which, combined with Executive Order 11905, would constitute the basic charters for the intelligence agencies.

5. I pointed out that not only was there an interrelationship between statute and Executive Order but there was a relationship between the statutes and S. Res. 400. I called attention to Senator Stennis' bill (S. 2597) which was introduced in 1973 to modify Section 102(d)(5) to state "...to perform such other functions and duties related to foreign intelligence affecting the national security as may be specifically directed from time to time by the Council and reported to

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the Congress in such manner and in accordance with such procedures as the Congress may establish to ensure effective legislative oversight with due recognition of essential security requirements." I mentioned that this bill, in a somewhat revised form, had been attached to the Armed Services Procurement Act by Senator Proxmire and had actually passed the Senate in the 93rd Congress but was stricken from the bill in the House on a point of order. My point was that enactment of this legislation which had been agreed to by the Administration in the 93rd Congress (but which should be given another look-see in view of the intervening period of time) coupled with the provisions of S. Res. 400 might be a sufficient revision to meet current requirements. I also indicated to the Committee staff at the conclusion of the breakfast that I hoped the Committee was intending to proceed with the briefings which we had suggested in the meeting with Senators Huddleston and Inouye which was attended by Mr. Jack Marsh, Counsellor to the President, Admiral Murphy and me several weeks ago. I was assured by Elliott Maxwell that indeed they did intend to proceed with these hearings. I argued strongly that the members of the Subcommittee ought to be familiar with the provisions of the Executive Order 11905 and the operation of the intelligence agencies pursuant to that Order before they begin to set any language in concrete.

6. Mr. Maxwell also mentioned to [redacted] and me that Senator Huddleston was planning to introduce a modified version of the "Sources and Methods" legislation within the next few days. He said Senator Huddleston planned to include in this legislation provisions making it unlawful, presumably under threat of criminal sanctions, for senior intelligence agency officials (probably including heads of agencies, General Counsels and Inspectors General) to fail to report violations of law to the appropriate authorities. According to Mr. Maxwell, Senator Huddleston believes that such provisions would give the legislation a degree of balance--that is, it would deal not only with those who disclose information improperly, but also with those who withhold information improperly--and enhance the prospects of enactment. I expressed reservations about this and suggested we all review the law to see if there is general legislation on this subject which is applicable to these circumstances.

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7. The Director noted that there was no sanction in existing law against illegal acts but felt this was something that could be taken care of without the need for separate legislation. He did however point out that if there was to be legislation he favored enactment of the "two deputies" legislation as well as the sources and methods proposal.

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GEORGE L. CARY
Legislative Counsel

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THE DIRECTOR OF CENTRAL INTELLIGENCE
WASHINGTON, D. C. 20505

19 January 1977

The President
The White House
Washington, D.C.

Dear Mr. President:

I am forwarding herewith the 1977 Director of Central Intelligence Report on the Intelligence Community, copies of which are also being sent to certain Committees of the Congress, members of the President's Foreign Intelligence Advisory Board, and other key elements of the Government concerned with the intelligence function.

In this letter of transmittal to you I want to set forth some of my own views on those issues which have most concerned me during this past year. First is my firm conviction that the country absolutely requires a strong Intelligence Community, a strong Central Intelligence Agency, clear recognition of their essentiality, and support for them throughout the Government and in the Nation at large.

This conviction is supported by the issues posed by an uncertain and complex international environment which includes increasing Soviet military capabilities, serious problems such as nuclear proliferation and terrorism, dependence for critical raw materials upon nations and regions where increasing instabilities are present, and global political, military, and economic interdependencies calling for difficult interdisciplinary assessments on our part.

My involvement with this whole range of issues, and many more, has given me deep pride in the dedication of the intelligence professionals who do so well all that we have asked of them. They have struggled successfully through some turbulent times, and their effectiveness has held up.

Despite the inevitable impact of continual bad publicity on morale, people have carried on and given us really magnificent support. They deserve our thanks and our respect. I have been especially gratified that during these traumatic times there has developed a growing sense of community among the various elements and departments that make up our intelligence effort. I have enjoyed the excellent personal relationships with the cabinet secretaries and other senior officials involved, and the enhanced sense of shared purpose on the part of our organizations.

An important part of my ability to do my job has been the access you have granted me and the support you have provided. I am convinced that no Director of Central Intelligence can do his job properly without that kind of relationship with the President. Not only has it made it possible for me to be more effective in providing overall direction to the Community, but it has also helped greatly in improving the image of the Intelligence Community on the part of the public.

Our relations with the Congress, and the forthcoming and cooperative response of elements of the Community to oversight and guidance from both Executive and Legislative Branches, have also helped greatly to modify unfavorable attitudes. We must keep up the momentum in thus improving public and Congressional perceptions.

Your Executive Order of last February enhanced our ability to manage the Community a great deal. The Committee on Foreign Intelligence which it established, the only mechanism we have ever had for overseeing the Intelligence Community budget and resource allocations, allowed us to carry out our responsibilities in this regard. But it needs strengthening to provide the DCI, and Chairman of the CFI, and his Intelligence Community Deputy when he so designates, more direct access to program managers on resource matters. The current requirement that everything relating to Defense-administered programs funnel through the Deputy Secretary of Defense before getting to the program managers within DoD has proven to be barely workable. We were able to get the job done in spite of this, but it was a most difficult chore, and unnecessarily so.

The job we did was to provide for the first time comprehensive resource control of the overall National Foreign Intelligence Program. The resultant program will meet the nation's needs for good and timely intelligence. This represents, I believe, an excellent investment. Dollars spent on sound intelligence permit us to use our national resources more wisely, to provide only for the national security forces we really need, and to play a more creative and responsible role in building a better world.

I strongly support a strengthened role for the Director of Central Intelligence as an essential aspect of maintaining the continued effectiveness, accountability, and economical operation of the Intelligence Community.

In particular I wish to note the special character of the multiple role of the DCI as principal foreign intelligence advisor to the President, coordinator of the Intelligence Community, and Director of the Central Intelligence Agency. This latter role is, in my view, an essential element of his capability to perform effectively in the other two, providing him with an independent analytical resource, a worldwide operational network which enhances his currency and value as advisor to the President, and an institutional base of the kind which prevents his becoming isolated from the real problems and concerns of elements of the Community. To ensure that these multiple roles remain advantages rather than become burdens, I would very much like to see enacted into law the legislative proposal previously forwarded making statutory provision for the Deputy DCI for the Intelligence Community.

As for the question of legislation in general, I am wary of opening reconsideration of the National Security Act of 1947 and the Central Intelligence Agency Act of 1949. In the current Congress I believe this could very well lead to placing of additional restrictions on intelligence operations, restrictions which would seriously hamper the effectiveness of our intelligence effort. I recognize that the Congress may push for charter legislation anyway, and of course we should be prepared to respond constructively to any legislative proposal, but I would not at this time seek such legislation nor encourage those who favor it.

In dealing with the Congress, I know you are aware of the heavy burden on executive time and concern which has been the result of interacting with seven separate Congressional Committees. I hope that we will be able to look forward in the future to dealing with a single joint select committee. Not only will this prove more efficient and manageable in terms of responding to legitimate Congressional concerns, but it will also greatly enhance the prospects for avoiding inadvertent leaks of classified material.

I am extremely concerned about the whole matter of leaks of classified information and the impact it has on my ability to protect sensitive intelligence sources and methods, as I am charged to do by law. I feel strongly about the need for legitimate secrecy. At present we are almost impotent in the face of damaging leaks. We need to face up to that, and to try to find ways to deal with it. We badly need legislation that will make it possible for us to meet our responsibilities in this realm.

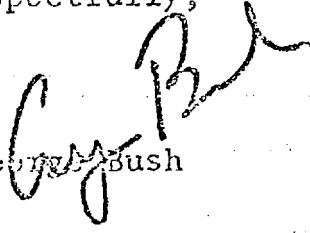
We also must act to strengthen our capabilities and performance in the matter of counterintelligence. We have, in my view, gone too far in restricting counterintelligence activities we need for our own protection. Legitimate functions of the Federal Bureau of Investigation in particular have been dangerously hampered.

I also favor reconsideration of the provisions of the Freedom of Information Act to provide relief for some agencies having a legitimate need for greater secrecy, notably the CIA. The numerous effective oversight mechanisms now functioning provide the protection for rights of our citizens which are essential; we should not find it necessary to go further and in so doing deprive ourselves of vital intelligence.

One aspect of our business which appears likely to continue to be contentious is that of covert action. I want to record my strong feeling that our country must have this capability when it needs it, given the world we live in. The control and review mechanisms which you have provided are the most stringent and responsible we have ever had, and provide strong guarantees that the capability will be employed only when necessary and carefully controlled. Your support - paralleled by the support of the great majority of legislative and public opinion - has been critical to the maintenance of this capability.

In sending you this annual report, I have wanted to reemphasize to you personally my views on these key aspects of our intelligence effort. And finally, Mr. President, I want to express my appreciation of the trust you have placed in me and the support you have provided to me and the entirety of the Intelligence Community. Serving under your leadership has been an uncommon privilege and pleasure.

Respectfully,


George Bush

Attachment
As stated

Pros and Cons of Enacting New Legislative Charters for Intelligence Agencies

PROS

Provide clear and positive legal authority in support of necessary activities of intelligence agencies.

Establish and clarify the authority of the Director of Central Intelligence over agencies in the Intelligence Community and the relationship among Community agencies.

Protect officers and employees from civil and criminal liability for their actions in carrying out activities authorized by statute.

Establish as a matter of law that certain activities by intelligence agencies are legal and proper although they may result in violation of laws of other nations.

CONS

The publicity given the legislative processes and the publication of laws authorizing the various activities necessary in the conduct of intelligence operations are contrary to international custom and tradition and to some degree may adversely effect the foreign relations of the United States.

Current intelligence requirements undoubtedly would change gradually and significantly while statutes create rigid limitations and usually cannot be changed quickly in recognition of new requirements.

Under the Constitution, the President has certain inherent authority in the field of foreign affairs. To the extent that intelligence agency charters do not authorize certain intelligence activities, those laws may be interpreted to prohibit what the President can direct under his inherent authority. Accordingly, any activity not provided for by charter, but considered by the executive to be Constitutionally authorized and necessary, may, if carried out, be seen by some members as a challenge to the authority of the legislature and result in an executive-legislative confrontation which would not have occurred in the absence of legislation.

Sufficient time should be allowed for experience to be gained in operating under the Executive order and concomitant directives and regulations before any thought is given to establishing similar provisions by statute.

All of those things to be accomplished by legislation can be provided for by Executive orders and directives which can be modified more easily than statutes to meet the changing needs. Congressional oversight can insure that intelligence agencies do not carry out undesirable activities which would otherwise be prohibited by law.

The effort to write statutory charters could lead anywhere, the legislative process being as uncertain and unpredictable as it is, and the final result could be a law, or set of laws, with more bad features than good ones. This was a particular concern of Mr. Bush.

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Calendar No. 1094

94TH CONGRESS
2D SESSION

S. 3197

[Report No. 94-1035]

[Report No. 94-1161]

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1976

Mr. KENNEDY (for himself, Mr. NELSON, Mr. MATILIAS, Mr. HUGH SCOTT, Mr. McCLELLAN, Mr. HRUSKA, Mr. BAYH, and Mr. ROBERT C. BYRD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 15, 1976

Reported, under authority of the order of the Senate of July 1, 1976, by
Mr. KENNEDY, with amendments

[Omit the part struck through and insert the part printed in italic]

JULY 19, 1976

Referred to the Select Committee on Intelligence, under authority of the order of June 16, 1976, for not to exceed 30 days

AUGUST 24 (legislative day, AUGUST 23), 1976

Reported by Mr. INOUE, with amendments

[Omit the part in black brackets and insert the part printed in bold italic]

A BILL

To amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Foreign Intelligence
- 4 Surveillance Act of 1976".

II

1 SEC. 2. Title 18, United States Code, is amended by
2 adding a new chapter after chapter 119 as follows:

3 **"Chapter 120.—ELECTRONIC SURVEILLANCE WITH-**
4 **IN THE UNITED STATES FOR FOREIGN INTEL-**
5 **LIGENCE PURPOSES**

"Sec.

"2521. Definitions.

"2522. Authorization for electronic surveillance for foreign intelligence purposes.

"2523. Designation of judges authorized to grant orders for electronic surveillance.

"2524. Application for an order.

"2525. Issuance of an order.

"2526. Use of information.

"2527. Report of electronic surveillance.

"2528. Presidential power."

6 **"§ 2521. Definitions**

7 **"(a) Except as otherwise provided in this section the**
8 **definitions of section 2510 of this title shall apply to this**
9 **chapter.**

10 **"(b) As used in this chapter—**

11 **["(1) 'Agent of a foreign power' means—**

12 **"(i) a person who is not a permanent resident**
13 **alien or citizen of the United States and who is**
14 **an officer or employee of a foreign power; or**

15 **"(ii) a person who, pursuant to the direction**
16 **of a foreign power, is engaged in clandestine in-**
17 **telligence activities, sabotage, or terrorist activities,**
18 **or who conspires with, assists or knowingly aids and**
19 **or abets such a person in engaging in such activities.**

1 “(2) ‘Electronic surveillance’ means—

2 “(i) the acquisition, by an electronic, me-
3 chanical, or other *surveillance* device, of the contents
4 of a wire communication to or from a person in the
5 United States, without the consent of any party
6 thereto, where such acquisition occurs in the United
7 States while the communication is being transmitted
8 by wire;

9 “(ii) the acquisition, by an electronic, mechani-
10 cal, or other *surveillance* device, of the contents of a
11 radio ~~transmission~~ *communication*, without the con-
12 sent of any party thereto, made, ~~with a reasonable~~
13 ~~expectation of privacy~~ *under circumstances where a*
14 *person has a constitutionally protected right of pri-*
15 *vac* ~~and~~ where both the ~~point of origin~~ *sender* and
16 all intended recipients are located within the United
17 States; or

18 “(iii) the installation of an electronic, mechani-
19 cal, or other *surveillance* device in the United States
20 to acquire information ~~not transmitted by other than~~
21 *from a wire communication or radio communication*
22 under circumstances in which a person has a ~~reason-~~
23 ~~able expectation of privacy~~ *constitutionally protected*
24 *right of privacy.*

1 “(3) ‘Foreign intelligence information’ means—

2 “(i) information ~~relating~~ *deemed necessary* to
3 the ability of the United States to protect itself
4 against actual or potential attack or other hostile
5 acts of a foreign power or its agents;

6 “(ii) information, with respect to foreign pow-
7 ers or territories, which because of its importance is
8 deemed essential *(a)* to the security or national
9 defense of the Nation or *(b)* to the conduct of
10 the foreign affairs of the United States; or

11 “(iii) information ~~relating~~ *deemed necessary*
12 to the ability of the United States to protect the
13 national security against foreign intelligence activi-
14 ties.

15 “(4) ‘Attorney General’ means the Attorney Gen-
16 eral of the United States or in his absence the Acting
17 Attorney General.

18 “(5) ‘Foreign power’ includes foreign governments,
19 *factions of a foreign government, foreign political parties,*
20 *foreign military forces, or agencies or instrumentalities of*
21 *enterprises controlled by* such entities, or organizations
22 composed of such entities, whether or not recognized by
23 the United States, or foreign-based terrorist groups.】

24 “(1) ‘Foreign power’ means—

1 “(A) a foreign government or any component
2 thereof, whether or not recognized by the United
3 States;

4 “(B) a faction of a foreign nation or nations,
5 not substantially composed of permanent resident
6 aliens or citizens of the United States;

7 “(C) an entity, which is directed and con-
8 trolled by a foreign government or governments;

9 “(D) a foreign-based terrorist group; or

10 “(E) a foreign-based political organization,
11 not substantially composed of permanent resident
12 aliens or citizens of the United States.

13 “(2) ‘Agent of a foreign power’ means—

14 “(A) a person who is not a permanent resi-
15 dent alien or citizen of the United States and who
16 is an officer or employee of a foreign power;

17 “(B) a person who—

18 “(i) knowingly engages in, or knowingly
19 acts in furtherance of, terrorist activities for
20 or on behalf of a foreign power, or

21 “(ii) conspires with, aids, or abets such a
22 person, knowing that such person is engaged
23 in such activities;

“(C) a person who—

“(i) knowingly engages in, or knowingly
acts in furtherance of, sabotage activities for
or on behalf of a foreign power, or

“(ii) conspires with, aids, or abets such a
person, knowing that such person is engaged
in such activities;

“(D) a person who—

“(i) knowingly engages in clandestine in-
telligence activities for or on behalf of a for-
eign power, which activities involve or will in-
volve a violation of the criminal statutes of
the United States; or

“(ii) conspires with, aids, or abets such a
person, knowing that such person is engaged
in such clandestine intelligence activities; or

“(E) a person who, acting pursuant to the
direction of an intelligence service or intelligence
network which engages in intelligence activities
in the United States on behalf of a foreign power,
knowingly transmits information or material to such
service or network in a manner intended to conceal
the nature of such information or material or the
fact of such transmission under circumstances which

1 *would lead a reasonable man to believe that the*
2 *information or material will be used to harm the*
3 *security of the United States, or that lack of knowl-*
4 *edge by the Government of the United States of*
5 *such transmission will harm the security of the*
6 *United States.*

7 *“(3) ‘Terrorist activities’ means activities which—*

8 *“(A) are violent acts or acts dangerous to*
9 *human life which are criminal under the laws of*
10 *the United States or of any State if committed*
11 *within its jurisdiction; and*

12 *“(B) appear to be intended—*

13 *“(i) to intimidate or coerce the civilian*
14 *population, or*

15 *“(ii) to influence the policy of a govern-*
16 *ment by intimidation or coercion.*

17 *“(4) ‘Sabotage activities’ means activities pro-*
18 *hibited by title 18, United States Code, chapter 105.*

19 *“(5) ‘Foreign intelligence information’ means—*

20 *“(A) information which relates to, and is*
21 *deemed necessary to the ability of the United States*
22 *to protect itself against, actual or potential attack*
23 *or other grave hostile acts of a foreign power or an*
24 *agent of a foreign power;*

1 “(B) information with respect to a foreign
2 power or foreign territory, which relates to, and
3 because of its importance is deemed essential to—

4 “(i) the national defense or the security
5 of the Nation, or

6 “(ii) the conduct of the foreign affairs
7 of the United States;

8 “(C) information which relates to, and is
9 deemed necessary to the ability of the United
10 States to protect against, the terrorist activities of
11 a foreign power or an agent of a foreign power;

12 “(D) information which relates to, and is
13 deemed necessary to the ability of the United
14 States to protect against, the sabotage activities
15 of a foreign power or an agent of a foreign power;
16 or

17 “(E) information which relates to, and is
18 deemed necessary to the ability of the United
19 States to protect itself against, the clandestine in-
20 telligence activities of an intelligence service or net-
21 work of a foreign power or an agent of a foreign
22 power;

23 “(6) ‘Electronic surveillance’ means—

24 “(A) the acquisition, by an electronic, me-
25 chanical, or other surveillance device, of the con-

1 *tents of a wire communication to or from a person*
2 *in the United States, without the consent of any*
3 *party thereto, where such acquisition occurs in the*
4 *United States while the communication is being*
5 *transmitted by wire;*

6 *“(B) the acquisition, by an electronic, me-*
7 *chanical, or other surveillance device of the con-*
8 *tents of a radio communication, without the con-*
9 *sent of any party thereto, made, under circum-*
10 *stances where a person has a constitutionally pro-*
11 *ected right of privacy and where both the sender*
12 *and all intended recipients are located within the*
13 *United States; or*

14 *“(C) the installation or use of an electronic,*
15 *mechanical, or other surveillance device in the*
16 *United States to acquire information other than*
17 *from a wire communication or radio communica-*
18 *tion under circumstances in which a person has a*
19 *constitutionally protected right of privacy.*

20 *“(7) ‘Attorney General’ means the Attorney Gen-*
21 *eral of the United States or in his absence the Acting*
22 *Attorney General.*

23 *“(8) ‘Minimization procedures’ means procedures*
24 *to minimize the acquisition of information that is not*
25 *foreign intelligence information, to assure that infor-*

1 *mation which is not foreign intelligence information not*
2 *be maintained, and to assure that information obtained*
3 *not be used except as provided in section 2526.*

4 "§ 2522. Authorization for electronic surveillance for for-
5 eign intelligence purposes

6 “Applications for a court order under this chapter are
7 authorized if the President has, by written authorization,
8 empowered the Attorney General to approve applications to
9 Federal judges having jurisdiction under section 2523 of
10 this chapter, and a judge to whom an application is made
11 may grant an order, in conformity with section 2525 of this
12 chapter, approving electronic surveillance of a foreign power
13 or an agent of a foreign power for the purpose of obtaining
14 foreign intelligence information.

15 **"§ 2523. Designation of judges authorized to grant orders**
16 **for electronic surveillance**

17 “(a) The Chief Justice of the United States shall *pub-*
18 *licly* designate seven district court judges, each of whom shall
19 have jurisdiction to hear applications for and grant orders
20 approving electronic surveillance anywhere within the
21 United States under the procedures set forth in this
22 [chapter.] *chapter, except that no judge designated under*
23 *this subsection shall have jurisdiction of an application*
24 *for electronic surveillance under this chapter which has*
25 *been denied previously by another judge designated under*

1 *this subsection. If any judge designated under this sub-*
2 *section denies an application for an order authorizing*
3 *electronic surveillance under this chapter, such judge shall*
4 *provide immediately for the record a complete written*
5 *statement of the reasons for his decision and, on motion*
6 *of the United States, direct that the record be transmitted,*
7 *under seal, to the special court of review established in*
8 *subsection (b).*

9 “(b) The Chief Justice shall *publicly* designate three
10 judges, *one of whom shall be publicly designated as the pre-*
11 *siding judge*, from the United States district courts or courts
12 of appeals who together shall comprise a special court of
13 [appeals which shall have jurisdiction to hear ~~an appeal~~
14 *appeals* by the United States from the denial of any applica-
15 tion made under this chapter. The United States shall further
16 have the right to appeal an affirmance of denial by that court
17 to the Supreme Court. All appeals under this chapter shall
18 be heard and determined as expeditiously as possible.]
19 *review which shall have jurisdiction to review the denial*
20 *of any application made under this chapter. If such special*
21 *court determines that the application was properly denied,*
22 *the special court shall immediately provide for the record*
23 *a complete written statement of the reasons for its decision*
24 *and, on motion of the United States, direct that the record*

1 *be transmitted to the Supreme Court, which shall have juris-*
2 *dition to review such decision.*

3 *“(c) [Applications made and orders granted under this*
4 *chapter shall be sealed by the presiding judge and shall*
5 *be kept under security measures established by the Chief*
6 *Justice in consultation with the Attorney General.] All*
7 *proceedings under this chapter shall be conducted as expedi-*
8 *tiously as possible. The record of proceedings under this*
9 *chapter, including applications made and orders granted,*
10 *shall be sealed by the presiding judge and shall be main-*
11 *tained under security measures established by the Chief*
12 *Justice in consultation with the Attorney General.*

13 **“§2524. Application for an order**

14 *“(a) Each application for an order approving electronic*
15 *surveillance under this chapter shall be made by a Federal*
16 *officer in writing upon oath or affirmation to a judge having*
17 *jurisdiction under section 2523 of this chapter. Each appli-*
18 *cation [must be approved by the Attorney General] shall*
19 *require the approval of the Attorney General based upon*
20 *his finding that it satisfies the criteria and requirements of*
21 *such application as set forth in this chapter. It and shall*
22 *include the following information:*

23 *“(1) the identity of the Federal officer making the*
24 *application;*

25 *“(2) the authority conferred on the applicant by*

1 the President of the United States and the approval of
2 the Attorney General to make the application;

3 “(3) the identity or a characterization of the per-
4 son who is the **[subject]** *target* of the electronic sur-
5 veillance;

6 “(4) a statement of the facts and circumstances
7 relied upon by the applicant to justify his belief that—

8 “(i) the target of the electronic surveillance
9 is a foreign power or an agent of a foreign power
10 and

11 “(ii) the facilities or the place at which the
12 electronic surveillance is directed are being used,
13 or are about to be used, by a foreign power or an
14 agent of a foreign power;

15 “(5) a statement of the procedures by which the
16 to minimize the **[acquisition and retention]** *acquisition,*
17 *retention, and dissemination, and to require the ex-*
18 *punging*, of information relating to permanent resident
19 aliens or citizens of the United States that is ~~not foreign~~
20 ~~intelligence information will be minimized;~~ *does not*
21 *relate to the ability of the United States: [to protect itself*
22 *against actual or potential attack or other hostile acts*
23 *of a foreign power or its agents; to provide for the*
24 *security or national defense of the Nation or the con-*
25 *duct of foreign affairs of the United States; or to pro-*

1 *tect the national security against foreign intelligence*
2 *activities.】*

3 *“(A) to protect itself against actual or poten-*
4 *tial attack or other grave hostile acts of a foreign*
5 *power or an agent of a foreign power;*

6 *“(B) to provide for the national defense or*
7 *the security of the Nation;*

8 *“(C) to provide for the conduct of the foreign*
9 *affairs of the United States;*

10 *“(D) to protect against the terrorist activities*
11 *of a foreign power or an agent of a foreign power;*

12 *“(E) to protect itself against the sabotage ac-*
13 *tivities of a foreign power or an agent of a foreign*
14 *power; or*

15 *“(F) to protect itself against the clandestine*
16 *intelligence activities of an intelligence service or*
17 *network of a foreign power or an agent of a for-*
18 *ign power;*

19 *except, that appropriate steps shall be taken to*
20 *insure that information retained which relates*
21 *solely to the conduct of foreign affairs shall not be*
22 *maintained in such a manner as to permit the*
23 *retrieval of such information by reference to a*
24 *citizen of the United States who is a party to a com-*
25 *munication intercepted as provided in this chapter;*

1 [“(6) a description of the type of information
2 sought and a certification by the Assistant to the Presi-
3 dent for National Security Affairs or an executive branch
4 official designated by the President from among those
5 executive officers employed in the area of national
6 security or defense and appointed by the President by
7 and with the advice and consent of the Senate that such
8 *the information sought* is foreign intelligence information,
9 *that the purpose of the surveillance is to obtain foreign*
10 *intelligence information and that such information cannot*
11 feasibly be obtained by normal investigative techniques;]

12 “(6) *if the target of the electronic surveillance is*
13 *a foreign power which qualifies as such solely on the*
14 *basis that it is an entity controlled and directed by a*
15 *foreign government or governments, and unless there*
16 *is probable cause to believe that a substantial number*
17 *of the officers or executives of such entity are officers*
18 *or employees of a foreign government, or agents of a*
19 *foreign power as defined in section 2521(2) (B), (C),*
20 *(D), or (E), a statement of the procedures to prevent*
21 *the acquisition, retention, and dissemination and to*
22 *require the expunging of communications of perma-*
23 *nent resident aliens and citizens of the United States*
24 *who are not officers or executives of such entity re-*

1 *responsible for those areas of its activities which involve*
2 *foreign intelligence information.*

3 *“(7) a factual description of the nature of the*
4 *information sought;*

5 *“(8) a certification or certifications by the Assist-*
6 *ant to the President for National Security Affairs or*
7 *an executive branch official or officials designated by*
8 *the President from among those executive officers em-*
9 *ployed in the area of national security or defense and*
10 *appointed by the President with the advice and consent*
11 *of the Senate—*

12 *“(A) that the information sought is foreign*
13 *intelligence information;*

14 *“(B) that the purpose of the surveillance is*
15 *to obtain foreign intelligence information;*

16 *“(C) that such information cannot feasibly*
17 *be obtained by normal investigative techniques;*

18 *“(D) including a designation of the type of*
19 *foreign intelligence information being sought ac-*
20 *cording to the categories described in section 2521*

21 *(b)(5); and*

22 *“(E) including a statement of the basis for*
23 *the certification that—*

24 *“(i) the information sought is the type of*

1 *foreign intelligence information designated,*
2 *and*
3 “(ii) *such information cannot feasibly be*
4 *obtained by normal investigative techniques;*
5 “[(7)] (9) a statement of the means by which the
6 surveillance will be effected;
7 “[(8)] (10) a statement of the facts concerning all
8 previous applications [known to the Attorney Gen-
9 eral] that have been made to any judge under this
10 chapter involving any of the persons, facilities, or places
11 specified in the application, and the action taken on
12 each previous application; and
13 “[(9)] (11) a statement of the period of time for
14 which the electronic surveillance is required to be
15 maintained. If the nature of the intelligence gathering
16 is such that the approval of the use of electronic surveil-
17 lance under this chapter should not automatically termi-
18 nate when the described type of information has first
19 been obtained, a description of facts supporting the belief
20 that additional information of the same type will be
21 obtained thereafter.
22 “(b) The Attorney General may require any other affi-
23 davit or certification from any other officer in connection with
24 the application.

1 “(c) ~~At the time of the hearing on the application, the~~
2 ~~applicant may furnish to the judge additional information in~~
3 ~~support of the application and~~ *The judge may require the*
4 applicant to furnish such other information or evidence as
5 may be necessary to make the determinations required by
6 section 2525 of this ~~title~~ *chapter*.

7 **“§ 2525. Issuance of an order**

8 “(a) Upon an application made pursuant to section
9 2524 of this title, the judge shall enter an ex parte order
10 as requested or as modified approving the electronic sur-
11 veillance if he finds that—

12 “(1) the President has authorized the Attorney
13 General to approve applications for electronic surveil-
14 lance for foreign intelligence information;

15 “(2) the application has been *made by a Federal*
16 *officer and* approved by the Attorney General;

17 “(3) on the basis of the facts submitted by the ap-
18 plicant there is probable cause to believe that:

19 “(i) the target of the electronic surveillance is
20 a foreign power or an agent of a foreign power; and

21 “(ii) the facilities or place at which the elec-
22 tronic surveillance is directed are being used, or are
23 about to be used, by a foreign power or an agent of
24 a foreign power;

25 “(4) minimization procedures to be followed are

1 reasonably designed to minimize the [acquisition and
2 retention] *acquisition, retention, and dissemination,*
3 *and to require the expunging,* of information relating
4 to permanent resident aliens or citizens of the United
5 States that is ~~not foreign intelligence information~~; *does*
6 *not relate to the ability of the United States: [to protect*
7 *itself against actual or potential attack or other hostile*
8 *acts of a foreign power or its agents; to provide for the*
9 *security or national defense of the Nation or the conduct*
10 *of foreign affairs of the United States; or to protect the*
11 *national security against foreign intelligence activities;]*

12 “(A) *to protect itself against actual or poten-*
13 *tial attack or other grave hostile acts of a foreign*
14 *power or an agent of a foreign power;*

15 “(B) *to provide for the national defense or*
16 *the security of the Nation;*

17 “(C) *to provide for the conduct of the for-*
18 *ign affairs of the United States;*

19 “(D) *to protect against the terrorist activi-*
20 *ties of a foreign power or an agent of a foreign*
21 *power;*

22 “(E) *to protect itself against the sabotage*
23 *activities of a foreign power or an agent of a for-*
24 *ign power; or*

25 “(F) *to protect itself against the clandestine*

1 intelligence activities of an intelligence service or
2 network of a foreign power or an agent of a foreign
3 power;

4 except, that appropriate steps shall be taken to insure
5 that information retained which relates solely to the
6 conduct of foreign affairs shall not be maintained in
7 such a manner as to permit the retrieval of such infor-
8 mation by reference to a citizen of the United States
9 who is a party to a communication intercepted as pro-
10 vided in this chapter.

11 “(5) if the target of the electronic surveillance
12 is a foreign power which qualifies as such solely on
13 the basis that it is an entity controlled and directed
14 by a foreign government or governments, and unless
15 there is probable cause to believe that a substantial
16 number of the officers or executives of such entity are
17 officers or employees of a foreign government, or
18 agents of a foreign power as defined in section 2521(2)
19 (B), (C), (D), or (E), procedures to be followed are
20 reasonably designed to prevent the acquisition, reten-
21 tion, and dissemination, and to require the expunging
22 of communications of permanent resident aliens and
23 citizens of the United States who are not officers or
24 executives of such entity responsible for those areas

1 *of its activities which involve foreign intelligence*
2 *information.*

3 [“(5) certification has been made pursuant to sec-
4 tion 2524 (a) (6) that the information sought is foreign
5 intelligence information, that *the purpose of this surveil-*
6 *lance is to obtain such foreign intelligence information*
7 *and that such information cannot feasibly be obtained by*
8 normal investigative techniques.]

9 “(6) *the application which has been filed contains*
10 *the description and certification or certifications, speci-*
11 *fied in section 2524(a) (7) and (8).*

12 “(b) An order approving an electronic surveillance
13 under this section shall—

14 “(1) specify—

15 “(i) the identity or a characterization of the
16 person who is the subject of the electronic surveil-
17 lance;

18 “(ii) the nature and location of the facilities or
19 the place at which the electronic surveillance will be
20 directed;

21 “(iii) the type of information sought to be
22 acquired;

23 “(iv) the means by which the electronic sur-
24 veillance will be effected; and

1 “(v) the period of time during which the elec-
2 tronic surveillance is approved; and

3 “(2) direct—

4 “(i) that the minimization procedures be fol-
5 lowed;

6 “(ii) that, upon the request of the applicant,
7 a specified communication or other common carrier,
8 landlord, custodian, contractor, or other specified
9 person furnish the applicant forthwith any and all
10 information, facilities, or technical assistance, or
11 other aid necessary to accomplish the electronic sur-
12 veillance in such manner as will protect its secrecy
13 and produce a minimum of interference with the
14 services that such carrier, landlord, custodian, con-
15 tractor, or other person is providing that target of
16 electronic surveillance; and

17 “(iii) that the applicant compensate, at the
18 prevailing rates, such carrier, landlord, custodian,
19 or other person for furnishing such aid.

20 “(c) An order issued under this section may approve
21 an electronic surveillance for the period necessary to achieve
22 its purpose, or for ninety days, whichever is less. Extensions
23 of an order issued under this chapter may be granted upon
24 an application for an extension made in the same manner as
25 required for an original application and after *new* findings

1 required by subsection (a) of this section. *In connection with*
2 *the new findings of probable cause, the judge may require*
3 *the applicant to submit information obtained pursuant to the*
4 *original order or to any previous extensions, or any other*
5 *information or evidence as he finds necessary to make such*
6 *new findings.* Each extension may be for the period necessary
7 to achieve the purposes for which it is granted, or for ninety
8 days, whichever is less.

9 “(d) Notwithstanding any other provision of this
10 chapter when the Attorney General reasonably determines
11 that—

12 “(1) an emergency situation exists with respect
13 to the employment of electronic surveillance to obtain
14 foreign intelligence information before an order au-
15 thorizing such surveillance can with due diligence be
16 obtained, and

17 “(2) the factual basis for issuance of an order under
18 this chapter to approve such surveillance exists,
19 he may authorize the emergency employment of electronic
20 surveillance if a judge designated pursuant to section 2523
21 of this title is informed by the Attorney General or his desig-
22 nate at the time of such authorization that the decision has
23 been made to employ emergency electronic surveillance
24 and if an application in accordance with this chapter is made
25 to that judge as soon as practicable, but not more than

1 twenty-four hours after the Attorney General authorizes
2 such acquisition. *If the Attorney General authorizes such*
3 *emergency employment of electronic surveillance, he shall*
4 *require that the minimization procedures required by this*
5 *chapter for the issuance of a judicial order be followed.* In
6 the absence of a judicial order approving such electronic
7 surveillance, the surveillance shall terminate when the infor-
8 mation sought is obtained, when the application for the order
9 is denied, or after the expiration of twenty-four hours from
10 the time of authorization by the Attorney General, whichever
11 is earliest. *In the event that such application for approval is*
12 *denied, or in any other case where the electronic surveillance*
13 *is terminated without an order having been issued, no infor-*
14 *mation obtained or evidence derived from such surveillance*
15 *shall be received in evidence or otherwise disclosed in any*
16 *trial, hearing or other proceeding in or before any court,*
17 *grand jury, department, office, agency, regulatory body,*
18 *legislative committee or other authority of the United States,*
19 *a State, or a political subdivision thereof.* As provided in
20 section 2523, a denial of the application may be appealed
21 by the Attorney General.

22 “(e) A judge denying an order under this section or
23 a panel affirming such denial under section 2523 (b) shall
24 state the reasons therefor.

1 “§ 2526. Use of information

2 “(a) Information acquired from an electronic surveil-
3 lance conducted pursuant to this chapter may be used **[by]**
4 and disclosed ~~by~~ **[to]** by Federal officers and employees
5 only for the purposes designated under this chapter set forth
6 in section 2521(b) (3) of this chapter relating to the ability
7 of the United States: **[to protect itself against actual or**
8 potential attack or other hostile acts of a foreign power or

9 its agents; to provide for the security or national defense

10 of the Nation or the conduct of foreign affairs of the United

11 States; or to protect the national security against foreign

12 intelligence activities]

13 “(1) to protect itself against actual or potential
14 attack or other grave hostile acts of a foreign power
15 or agent of a foreign power;

16 “(2) to provide for the national defense or the
17 security of the Nation;

18 “(3) to provide for the conduct of the foreign af-
19 fairs of the United States;

20 “(4) to protect against the terrorist activities of
21 a foreign power or agent of a foreign power;

22 “(5) to protect itself against the sabotage activities
23 of a foreign power or agent of a foreign power; or

24 “(6) to protect itself against the clandestine intel-

1 *ligence activities of an intelligence service or network*
2 *of a foreign power or agent of a foreign power.*

3 or for the enforcement of the criminal law. *No otherwise*
4 *privileged communication obtained in accordance with or*
5 *in violation of, the provisions of this chapter shall lose its*
6 *privileged character.*

7 [“(b) The minimization procedures required under this
8 chapter shall not preclude the retention and disclosure of
9 *information which is not nonforeign intelligence information*
10 *acquired incidentally which is evidence of a crime.*]

11 “(b) *The minimization procedures required under this*
12 *chapter shall not preclude the retention and disclosure, for*
13 *law enforcement purposes, of any information which con-*
14 *stitutes evidence of a crime if such disclosure is accom-*
15 *panied by a statement that such evidence, or any informa-*
16 *tion derived therefrom, may only be used in a criminal*
17 *proceeding with the advance authorization of the Attorney*
18 *General.*

19 “(c) ~~When information acquired from or the product~~
20 ~~of an electronic surveillance conducted pursuant to this~~
21 ~~chapter is received in evidence in any trial, proceeding, or~~
22 ~~other hearing in any Federal or State court, the provisions~~
23 ~~of section 2518(9) of chapter 119 shall not apply. No other-~~
24 ~~wise privileged communication obtained in accordance with,~~

1 or in violation of the provisions of this chapter shall lose its
2 privileged character.

3 “(c) No information obtained or derived from an elec-
4 tronic surveillance shall be received in evidence or otherwise
5 used or disclosed in any trial, hearing, or other proceeding
6 in a Federal or State court unless, prior to the trial, hear-
7 ing, or other proceeding or at a reasonable time prior to an
8 effort to disclose the information or submit it in evidence in
9 the trial, hearing, or other proceeding, the Government noti-
10 fies the court of the source of the information and the court,
11 in camera and ex parte, determines that the surveillance was
12 authorized and conducted in a manner that did not violate
13 any right afforded by the Constitution and statutes of the
14 United States to the person against whom the evidence is to
15 be introduced. In making such a determination, the court,
16 after reviewing a copy of the court order and accompany-
17 ing application in camera, **[may]** shall order disclosed to
18 the person against whom the evidence is to be introduced the
19 order and application, or portions thereof, **[only]** if it finds
20 that **[such disclosure would substantially promote a more**
21 **accurate determination of the legality of the surveillance and**
22 **that such disclosure would not harm the national security]**
23 **there is a reasonable question as to the legality of the sur-**
24 **veillance and that such disclosure would promote a more**

1 *accurate determination of such legality, or that such dis-*
2 *closure would not harm the national security.*

3 “(d) Any person who has been a subject of electronic
4 surveillance and against whom evidence derived from such
5 electronic surveillance is to be, or has been, introduced or
6 otherwise used or disclosed in any trial, hearing, or proceed-
7 ing in or before any court, department officer, agency, regu-
8 latory body, or other authority of the United States, a State,
9 or a political subdivision thereof, may move to suppress the
10 contents of any communication acquired by electronic surveil-
11 lance, or evidence derived therefrom, on the grounds that—

12 “(i) the communication was unlawfully intercepted;

13 “(ii) the order of authorization or approval under
14 which it was intercepted is insufficient on its face; or

15 “(iii) the interception was not made in conformity
16 with the order of authorization or approval.

17 Such motion shall be made before the trial, hearing, or pro-
18 ceeding unless there was no opportunity to make such mo-
19 tion or the person was not aware of the grounds of the motion.
20 If the motion is granted, the contents of the communica-
21 tion acquired by electronic surveillance or evidence derived
22 therefrom shall be suppressed. The judge, upon the filing
23 of such motion may in his discretion make available to the
24 person or his counsel for inspection such portions of the
25 intercepted communication or evidence derived therefrom

1 *as the judge determines to be in the interests of justice [and*
2 *the national security].*

3 “~~(d)~~ (e) If an emergency employment of the elec-
4 tronic surveillance is authorized under section 2525 (d) and
5 a subsequent order approving the surveillance is not ob-
6 tained, the judge shall cause to be served on any United
7 States citizen or permanent resident alien named in the
8 application and on such other United States citizen or per-
9 manent resident alien subject to electronic surveillance as
10 the judge may determine in his discretion it is in the interest
11 of justice to serve, notice of—

12 “(1) the fact of the application;

13 “(2) the period of the surveillance; and

14 “(3) the fact that during the period *foreign intel-*
15 *ligence* information was or was not obtained.

16 On an ex parte showing of good cause to the judge the
17 serving of the notice required by this subsection may be
18 postponed or suspended for a period not to exceed ninety
19 days. Thereafter, on a further ex parte showing of good
20 cause, the court shall forgo ordering the serving of the
21 notice required under this subsection.

22 **“§ 2527. Report of electronic surveillance**

23 “(a) In April of each year, the Attorney General shall
24 report to the Administrative Office of the United States

1 Courts and shall transmit to the Congress with respect to the
2 preceding calendar year—

3 “(1) the number of applications made for orders
4 and extensions of orders approving electronic surveil-
5 lance and the number of such orders and extensions
6 granted, modified, and denied;

7 “(2) the periods of time for which applications
8 granted authorized electronic surveillances and the actual
9 duration of such electronic surveillances;

10 “(3) the number of such surveillances in place at
11 any time during the preceding year; and

12 “(4) the number of such surveillances terminated
13 during the preceding year.

14 “(b) *Nothing in this chapter shall be deemed to limit*
15 *the authority of the Select Committee on Intelligence of*
16 *the United States Senate to obtain such information as*
17 *it may need to carry out its duties pursuant to Senate Res-*
18 *olution 400, 94th Congress, agreed to May 19, 1976.*

19 “§ 2528. Presidential power

20 “~~Nothing contained in this chapter shall limit the con-~~
21 ~~stitutional power of the President to order electronic sur-~~
22 ~~veillance for the reasons stated in section 2511(3) of title~~
23 ~~18, United States Code, if the facts and circumstances giving~~
24 ~~rise to such order are beyond the scope of this chapter.”~~

25 “*Nothing contained in chapter 119, section 605 of the*

1 *Communications Act of 1934, or this chapter shall be*
2 *deemed to affect the exercise of any constitutional power the*
3 *President may have, subject to determination by the courts,*
4 *to acquire foreign intelligence information by means of an*
5 *electronic, mechanical, or other surveillance device if:*

6 “(a) such acquisition does not come within the
7 definition of electronic surveillance in paragraph (6) of
8 subsection (b) of section 2521 of this chapter, or

9 “(b) the facts and circumstances giving rise to the
10 acquisition are so unprecedented and potentially harm-
11 ful to the Nation that they cannot be reasonably said to
12 have been within the contemplation of Congress in enact-
13 ing this chapter or chapter 119: Provided, That in such
14 an event, the President shall, within [a reasonable time
15 thereafter, transmit to the] seventy-two hours of the ini-
16 tiation of such surveillance, transmit to the Select
17 Committee on Intelligence of the United States Senate
18 and the Committees on the Judiciary of the Senate and
19 House of Representatives, under a written injunction of
20 secrecy if necessary, a statement setting forth the nature
21 of such facts and circumstances. Foreign intelligence
22 information acquired by authority of the President in
23 the exercise of the foregoing powers may be received in
24 evidence in any trial, hearing, or other proceeding only
25 where such acquisition was reasonable, and shall not be

1 *otherwise used or disclosed except as is necessary to im-*
2 *plement that power.”.*

3 *SEC. 3. The provisions of this Act and the amendment*
4 *made hereby shall become effective upon enactment: Provided,*
5 *That, any electronic surveillance approved by the Attorney*
6 *General to gather foreign intelligence information shall not*
7 *be deemed unlawful for failure to follow the procedures of*
8 *chapter 120, title 18, United States Code, if that surveillance*
9 *is terminated or an order approving that surveillance is*
10 *obtained under this chapter within sixty days following the*
11 *designation of the first judge pursuant to section 2523 of*
12 *chapter 120, title 18, United States Code.*

13 *SEC. 4. Chapter 119 of title 18, United States Code, is*
14 *amended as follows:*

15 **[(a) Section 2511(1) is amended by inserting the words**
16 **“or chapter 120” after the word “chapter”.]**

17 *(a) Section 2511(1) is amended—*

18 *(1) by inserting “or chapter 120 or as otherwise*
19 *authorized by a search warrant or order of a court of*
20 *competent jurisdiction,” immediately after “chapter” in*
21 *the first sentence;*

22 *(2) by inserting a comma and “or, under color of*
23 *law, willfully engages in any other form of electronic*
24 *surveillance as defined in chapter 120” immediately*
25 *before the semicolon in paragraph (a);*

1 (3) by inserting "or information obtained under
2 color of law by any other form of electronic surveil-
3 lance as defined in chapter 120" immediately after
4 "contents of any wire or oral communication" in para-
5 graph (c);

6 (4) by inserting "or any other form of electronic
7 surveillance, as defined in chapter 120," immediately
8 before "in violation" in paragraph (c);

9 (5) by inserting "or information obtained under
10 color of law by any other form of electronic surveil-
11 lance as defined in chapter 120" immediately after
12 "any wire or oral communication" in paragraph (d);
13 and

14 (6) by inserting "or any other form of electronic
15 surveillance, as defined in chapter 120," immediately
16 before "in violation" in paragraph (d).

17 [(b) Section 2511(2)(a)(ii) is amended by inserting
18 the words "or chapter 120" after both appearances of the
19 word "chapter;" and by adding at the end of the section the
20 following provision: "Provided, however, That before the
21 information, facilities, or technical assistance may be pro-
22 vided, the investigative or law enforcement officer shall fur-
23 nish to the officer, employee, or agency of the carrier either—

24 "(1) an order signed by the authorizing judge

1 *certifying that a court order directing such assistance*
2 *has been issued, or*

3 *“(2) in the case of an emergency surveillance as*
4 *provided for in section 2518(7) of this chapter or sec-*
5 *tion 2525(d) of chapter 120, or a surveillance conducted*
6 *under the provisions of section 2528(b) of chapter 120,*
7 *a sworn statement by the investigative or law enforce-*
8 *ment officer certifying that the applicable statutory re-*
9 *quirements have been met,*

10 *and setting forth the period of time for which the surveil-*
11 *lance is authorized and describing the facilities from which*
12 *the communication is to be intercepted. Any violation of this*
13 *subsection by a communication common carrier or an officer,*
14 *employee, or agency thereof, shall render the carrier liable*
15 *for the civil damages provided for in section 2520.】*

16 *“(b)(1) Section 2511(2)(a)(i) is amended by insert-*
17 *ing the words ‘or radio communication’ after the words ‘wire*
18 *communication’ and by inserting the words ‘or otherwise*
19 *acquire’ after the word ‘intercept.’*

20 *“(2) Section 2511(2)(a)(ii) is amended by inserting*
21 *the words ‘or chapter 120’ after the second appearance of*
22 *the word ‘chapter,’ and by striking the period at the end*
23 *thereof and adding the following: ‘or engage in electronic*
24 *surveillance, as defined in chapter 120: Provided, however,*
25 *That before the information, facilities, or technical assist-*

1 *ance may be provided, the investigative or law enforcement*
2 *officer shall furnish to the officer, employee, or agency of*
3 *the carrier either—*

4 *“(1) an order signed by the authorizing judge cer-*
5 *tifying that a court order directing such assistance has*
6 *been issued, or*

7 *“(2) in the case of an emergency surveillance as*
8 *provided for in section 2518(7) of this chapter or sec-*
9 *tion 2525(d) of chapter 120, or a surveillance con-*
10 *ducted under the provisions of section 2528 of chapter*
11 *120, a sworn statement by the investigative or law*
12 *enforcement officer certifying that the applicable stat-*
13 *utory requirements have been met,*

14 *and setting forth the period of time for which the sur-*
15 *veillance is authorized and describing the facilities from*
16 *which the communication is to be intercepted. Any vio-*
17 *lation of this subsection by a communication common car-*
18 *rier or an officer, employee, or agency thereof, shall render*
19 *the carrier liable for the civil damages provided for in*
20 *section 2520.’”.*

21 *[(c) Section 2511(2) is amended by adding at the end*
22 *of the section the following provision:*

23 *“(e) It shall not be unlawful under this chapter or*
24 *chapter 120, or section 605 of the Communications Act of*
25 *1934 for an officer, employee, or agent of the United States,*

1 in the normal course of his official duty, to conduct elec-
2 tronic surveillance as defined in section 2521(2)(ii) of
3 chapter 120, for the sole purpose of determining the capabil-
4 ity of equipment used to obtain foreign intelligence or the
5 existence or capability of equipment used by a foreign power
6 or its agents: Provided, (1) that the test period shall be lim-
7 ited in extent and duration to that necessary to determine the
8 capability of the equipment, but in no event shall exceed ninety
9 days; and (2) that the content of any communication ac-
10 quired under this section shall be retained and used only for
11 the purpose of determining the existence or capability of such
12 equipment, shall be disclosed only to the officers conducting
13 the test or search, and shall be destroyed upon completion of
14 the testing or search period.”.]

15 “(c)(1) Section 2511(2)(b) is amended by inserting
16 the words ‘or otherwise engage in electronic surveillance, as
17 defined in chapter 120,’ after the word ‘radio.’

18 “(2) Section 2511(2)(c) is amended by inserting the
19 words ‘or engage in electronic surveillance, as defined in
20 chapter 120,’ after the words ‘oral communication’ and
21 by inserting the words ‘or such surveillance’ after the last
22 word in the paragraph and before the period.

23 “(3) Section 2511(6) is amended by adding at the end
24 of the section the following provision:

25 “(e) It shall not be unlawful under this chapter

1 *or chapter 120, or section 605 of the Commissions Act*
2 *of 1934 for an officer, employee, or agent of the United*
3 *States in the normal course of his official duty, to con-*
4 *duct electronic surveillance as defined in section 2521*
5 *(b)(2) of chapter 120, for the sole purpose of deter-*
6 *mining the capability of equipment used to obtain*
7 *foreign intelligence or the existence or capability of*
8 *equipment used by a foreign power or its agents: Pro-*
9 *vided, (1) That the test period shall be limited in*
10 *extent and duration to that necessary to determine*
11 *the capability of the equipment, and (2) that the con-*
12 *tent of any communication acquired under this section*
13 *shall be retained and used only for the purpose of deter-*
14 *mining the existence or capability of such equipment,*
15 *shall be disclosed only to the officers conducting the test,*
16 *and shall be destroyed upon completion of the testing;*
17 *and (3) that the test may exceed ninety days only with*
18 *the prior approval of the Attorney General.’ ”*

19 *(d) Section 2511(3) is repealed.*

20 **[(e) Section 2515 is amended by adding at the end of**
21 **the section the words “or chapter 120”.]**

22 *“(e) Section 2515 is amended by inserting the words*
23 *‘or electronic surveillance as defined in chapter 120, has*
24 *been made’ after the word ‘intercepted’ and by inserting the*
25 *words ‘or other information obtained from electronic sur-*

1 *veillance, as defined in chapter 120,' after the second ap-*
 2 *pearance of the word 'communication'."*

3 *(f) Section 2518(1) is amended by inserting the words*
 4 *"under this chapter" after the word "communication".*

5 *(g) Section 2518(4) is amended by inserting the words*
 6 *"under this chapter" after both appearances of the words*
 7 *"wire or oral communication".*

8 *(h) Section 2518(9) is amended by striking the word*
 9 *"intercepted" and inserting the words "intercepted pursuant*
 10 *to this chapter" after the word "communication".*

11 *(i) Section 2518(10) is amended by striking the word*
 12 *"intercepted" and inserting the words "intercepted pursuant*
 13 *to this chapter" after the first appearance of the word*
 14 *"communication".*

15 *(j) Section 2519(3) is amended by inserting the words*
 16 *"pursuant to this chapter" after the words "wire or oral*
 17 *communications" and after the words "granted or denied".*

18 **[(k) Section 2520 is amended by—**

19 *(1) inserting the words, "other than an agent of a*
 20 *foreign power as defined in section 2521(b)(1)(i) of*
 21 *chapter 120" after the first appearance of the word*
 22 *"person";*

23 *(2) inserting the words "or chapter 120" after the*
 24 *word "chapter".]*

25 *"(k) Section 2520 is amended by deleting all before*

1 subsection (2) and inserting in lieu thereof: 'any person
2 other than an agent of a foreign power as defined in section
3 2521(b)(2)(A) of chapter 120, who has been subject to
4 electronic surveillance, as defined in chapter 120, or whose
5 wire or oral communication has been intercepted, or about
6 whom information has been disclosed or used, in violation
7 of this chapter, shall (1) have a civil cause of action against
8 any person who so acted in violation of this chapter and;''

9 SEC. 5. On or before March 1, 1978, and on the first
10 day of March of each year thereafter, the Select Com-
11 mittee on Intelligence of the United States Senate shall
12 report to the Senate concerning the implementation of this
13 chapter. Said reports shall include but not be limited to
14 an analysis and recommendations concerning whether this
15 chapter should be (1) amended, (2) repealed, or (3) per-
16 mitted to continue in effect without amendment.

17 SEC. 6. (a) In the event the Select Committee on Intel-
18 ligence of the United States Senate shall report that this
19 chapter should be amended or repealed, it shall report out
20 legislation embodying its recommendations within thirty
21 calendar days, unless the Senate shall otherwise determine
22 by yeas and nays.

23 (b) Any legislation so reported shall become the pend-
24 ing business of the Senate with time for debate equally
25 divided between the proponents and the opponents and

1 *shall be voted on within three calendar days thereafter,*
2 *unless the Senate shall otherwise determine by yeas and*
3 *nays.*

4 *(c) Such legislation passed by the Senate shall be*
5 *referred to the appropriate committee of the other House*
6 *and shall be reported out by such committee together with*
7 *its recommendations within thirty calendar days and shall*
8 *thereupon become the pending business of such House and*
9 *shall be voted upon within three calendar days, unless such*
10 *House shall otherwise determine by yeas and nays.*

11 *(d) In the case of any disagreement between the two*
12 *Houses of Congress with respect to such legislation passed*
13 *by both Houses, conferees shall be promptly appointed*
14 *and the committee of conference shall make and file a*
15 *report with respect to such legislation within seven cal-*
16 *endar days after the legislation is referred to the com-*
17 *mittee of conference. Notwithstanding any rule in either*
18 *House concerning the printing of conference reports in the*
19 *record or concerning any delay in the consideration of such*
20 *reports, such report shall be acted on by both Houses not*
21 *later than seven calendar days after the conference report*
22 *is filed. In the event the conferees are unable to agree*
23 *within three calendar days they shall report back to their*
24 *respective Houses in disagreement.*

Calendar No. 1094

94TH CONGRESS
2D SESSION

S. 3197

[Report No. 94-1035]

[Report No. 94-1161]

A BILL

To amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

By Mr. KENNEDY, Mr. NELSON, Mr. MATHIAS,
Mr. HUGH SCOTT, Mr. McCLELLAN, Mr.
HRUSKA, Mr. BAYH, and Mr. ROBERT C. BYRD

MARCH 23, 1976

Read twice and referred to the Committee on the
Judiciary

JULY 15, 1976

Reported, under authority of the order of the Senate
of July 1, 1976, with amendments

JULY 19, 1976

Referred to the Select Committee on Intelligence under
authority of the order of June 16, 1976, for not to
exceed 30 days

AUGUST 24 (legislative day, AUGUST 23), 1976

Reported with amendments